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10.0 CRIMINAL HISTORY BACKGROUND CHECKS

10.1 Overview of Criminal History Background Checks. All individuals, regardless of employer, involved in child care services shall have completed background checks. CDCs, part-day preschool and enrichment programs, FCC providers, and contracted services shall have background checks as specified. Existing and newly hired individuals shall be notified of the requirement for a review of personnel and security records. This will include:

- Federal Bureau of Investigation-Identification Division (FBI-ID) fingerprint check
- State Criminal History Repositories (SCHR)
- Installation Record Checks (IRCs)

10.1.1 This notification shall be in writing and include a question asking whether the individual has ever been arrested for or charged with a crime involving a child. If so, a description of the arrest or charge must be included.

10.1.2 The results of the background checks shall be communicated to the requesting installation/office for appropriate action. A derogatory report would include but not be limited to the following applicable crimes:

- Any conviction for a sex crime
- An offense involving a child victim
- A substance abuse felony
- A violent crime

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- 10.1.3 Personnel shall be advised of proposed disciplinary action, decertification, or refusal to hire if disqualifying derogatory information is contained in a suitability investigation.
- Employees shall have the right to obtain a copy of a derogatory background check report and be given the opportunity to challenge the accuracy and completeness of reported information.
 - The hiring authority is responsible for notifying individuals of a derogatory report.
- 10.1.4 Prior to completion of all background checks, individuals with direct contact with children shall, when children are present, work within sight and under the supervision of an individual whose background check has been successfully completed. Once the individual is cleared, the requirement for within sight supervision may be terminated. Personnel shall be informed that a derogatory report shall result in removal from the position.
- Some means of readily identifying staff without completed background checks shall be used (e.g., different colored name tags, smocks, shirts, etc.).
- 10.1.5 Documentation, including date the check was initiated, returned, and results, shall be on file with the personnel office. This information shall be made available to all inspecting agencies.

10.2 Responsibilities for Conducting Checks

- 10.2.1 Fingerprint Checks. Law enforcement personnel are required to complete the required forms and forward through channels to the Office of Personnel Management (OPM) or Defense Investigative Service (DIS) for processing of FBI fingerprint forms.

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10.2.2 State Criminal History Repository Checks. Personnel offices, in collaboration with law enforcement and security personnel, shall process state criminal history background checks for employment. All states listed on employment or security applications as current or former residences shall be checked. (See Section 32 for sample application.) Full identifying information shall be provided on each applicant and confirmation requested that the individual has not been convicted in that state of a sex crime, an offense involving a child victim, a drug felony, or a violent crime. Action may be taken on a particular application 60 days from the date of request if no response has been received. Authorities will depend on the FBI fingerprint validation if states do not respond.

10.2.3 IRCs shall be completed by personnel at the installation level. IRCs consist of a local record check on an individual for a minimum period of 2 years before the date of the application including previous command, if applicable. IRCs are not completed on individuals without DoD affiliation (i.e., no installation system or records to check). This record check shall include, at a minimum:

- Three personal/professional references
- Division officer check (FCC applicants)
- Base/military police, security office, criminal investigators, or local law enforcement
- Counseling and Assistance Center (FCC applicant/sponsors-only)
- Family Housing (FCC applicants)
- Family Advocacy Program central registry records

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- In home interviews (FCC applicants)

NOTE: A Service Defense Central Investigative Index (DCII) may be conducted.

Upon favorable completion of an IRC, CDC-based staff may work under line of sight supervision.

10.3 The following procedures apply for conducting criminal history background checks:

10.3.1 APF applicants (18 years of age or older): (Procedures established in DoD 5400.11-R of August 1983 (NOTAL) shall be used.)

- Complete the Condition of Employment/Statement of Admission Form. (See Section 32.)
- Complete SF-171, "Application for Federal Employment."
- Obtain SF-87, Fingerprint Chart completed by law enforcement officer.
- Complete SF-85P, "Questionnaire for Public Trust Positions" (annotate Block "B" with code 03) for conduct of a NACI.
- Forward package to:

Office of Personnel Management
Office of Federal Oversight
Federal Investigations Processing Center
Boyer, PA 16018

- Initiate SCHR checks.

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- Conduct IRCs, if applicable. (See Section 32.) Upon favorable completion of IRCs, an individual may be selected and work within sight and under supervision.
- Document that the checks are initiated/completed. (See Section 32 for Background Check Tracking Form.)

10.3.2 NAF applicants (18 years of age or older):

- Complete the Condition of Employment/Statement of Admission Form. (See Section 32.)
- Complete the DD 398-2, "DoD National Agency Questionnaire" with reason for request identified as OTHER and annotated as child care.
- Complete FD 258, "FBI Applicant Fingerprint Card." Fingerprints shall be taken by local law enforcement organization personnel.
- Completed fingerprint chart and DD 398-2 shall be forwarded to:

Defense Investigative Service
Personnel Investigative Center
P.O. Box 1083
Baltimore, MD 21203-1083

- Conduct the SCHR.
- Conduct IRCs, if applicable. (See Section 32.) Upon favorable completion of IRCs, an individual may be selected and work within sight and under supervision.

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- Document that the checks are initiated/completed. (See Section 32 for Background Check Tracking Form.)
- 10.3.3 Foreign national employees overseas are subject to the following records checks or equivalent in scope to checks conducted on U.S. citizens.
- Complete the Condition of Employment/Statement of Admission Form. (See Section 32.)
 - Check host government law enforcement and security checks at the city, state (province), and national level, whenever permissible by the laws of the host government.
 - Check the DCII.
 - When permissible by laws of the host government, host government checks are requested directly by the employing command. As an alternative, overseas military investigative elements may obtain the appropriate host government check.
 - Where host nation arrangements preclude comparable criminal history checks, foreign nationals will not be eligible for employment.
 - Conduct IRCs, if applicable. (See Section 32.) Upon favorable completion of IRCs, an individual may be selected and work within sight and under supervision.
 - Document that the checks are initiated/completed.

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10.3.4 Temporary Employees. This category includes summer hires, student interns, and flexible employees. Background checks for these individuals are processed according to funding source; [i.e., for APF employees (to OPM) or NAF employees (to DIS)].

- Complete the Condition of Employment/Statement of Admission Form. (See Section 32.)
- Complete IRCs, if applicable. (See Section 32.) Upon favorable completion of IRCs, an individual may be selected and work within sight and under supervision.
- Document that the checks are initiated/completed.

10.3.5 Government Contract Employees

- Sponsoring activities are responsible for ensuring that the statement of work contains the requirement for background checks on all contractor employees providing child care services.
- The contracting officer is responsible for verifying that contractor services comply with contract quality requirements.
- At a minimum the statement of work shall:
 - State that the contractor will ensure employees have proper criminal history background checks.
 - State that actual checks are performed by the government.

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- Include procedures the contractor must follow to obtain employee checks (i.e., identify the office where employees report for processing, identify forms that must be completed). Also identify billing procedures and point of contact for results.
- State that employees may be permitted to work before completion of background checks, provided that employee is within sight of an individual with a successfully completed background check.
- State that employees have the right to obtain a copy of the background check report, whom they should contact for the copy, and whom to contact for procedures to challenge the accuracy and completeness of the information.
- Requirements for child care services must be submitted to the contracting officer sufficiently in advance of the required performance start date to provide time for obtaining background checks. Sponsoring activities' designees shall coordinate with the contracting office as soon as possible after a requirement for child care services becomes known.
- Procedures for obtaining responses for background checks are the same as those for NAFI employees and response to derogatory information will occur through the appropriate designee and contractor. An IRC will be performed if the individual is a military member, family member, or has worked or lived on a military installation within 5 years.

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10.3.6 FCC Providers

- Complete application for certification.
- Complete the Condition of Employment/Statement of Admission Form. (See Section 32.)
- Complete the DD 398-2, DoD National Agency Questionnaire.
- Complete the FD 258, FBI Applicant Fingerprint Card. Fingerprints shall be taken by local law enforcement organization personnel.
- Forward completed fingerprint cards and DD 398-2 to:

Defense Investigative Service
Personnel Investigative Center
P.O. Box 1083
Baltimore, MD 21203-1083

- Conduct IRCs on all adults and each child over the age of 12 residing in the applicants household. (See Section 10.2.3)
- Document that the checks have been initiated/completed. (See Section 32 for Background Check Tracking Form.)

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10.3.7 Volunteers

- Complete volunteer information form.
- Complete IRCs, if applicable. (See Section 10.2.3) Upon favorable completion of IRCs, an individual may work within sight and under supervision.
- Document that the checks are initiated/completed.

10.3.8 Current Employees

- All employees shall have FBI fingerprint and state criminal history background checks.
- Whether APF/NAF, if the appropriate checks are not documented in local records, follow appropriate procedures to conduct checks and document results in files.
- Until background check is complete, these individuals or newly hired individuals must be within sight and under the supervision of an individual whose background check has been successfully completed.
- Once it is clear that no derogatory information exists, line of sight supervision is terminated by the designee.
- If a derogatory report exists, personnel or security procedures shall dictate appropriate action.

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- 10.4 Record re-verification consists of IRCs and a DCII name check at a minimum of every 5 years and covers the time period since the last background check.
 - 10.4.1 NAFI employees who change duty stations shall have an updated investigation completed when considered for employment.
 - 10.4.2 A new investigation is required if a break in employment/certification results in time-lapse of more than 2 years.
 - 10.4.3 FCC providers, and their family members, shall have IRCs updated annually.

- 10.5 Background Check Matrix. This identifies the requirements for background checks by category of personnel. These checks are initiated through the personnel offices in collaboration with law enforcement and securing personnel.

NOTE: Remember that an IRC may only be completed on an individual who is a military member or family member, or who lives or works on a military installation. The sponsors social security number will be used to access information for military family members.

- 10.5.1 APF. FBI, SCHR, and IRC. (SF-171, SF-87, and SF-85P or comparable form used for more in-depth checks)
- 10.5.2 NAFI. FBI, SCHR, and IRC. (DD Form 398-2 and FD Form 258)
- 10.5.3 Foreign National Employees Overseas. IRC and local government check
- 10.5.4 Temporary Employees. FBI, SCHR, and IRC

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- 10.5.5 Current Employees. FBI, SCHR, and IRCs
- 10.5.6 Government Contract Employees. FBI, SCHR, and IRC
- 10.5.7 FCC Providers and Family Members Age 12 and Older. FBI and IRC (DD 398-2, FD 258)
- 10.5.8 Volunteers. IRC
- 10.6 Criteria for Criminal History Background Check Disqualification. Adverse information resulting from a background check shall be evaluated by qualified personnel at the appropriate level of command in interpreting criminal history background checks. The ultimate decision must incorporate a common sense decision based on all known facts. All information of record, both favorable and unfavorable, will be assessed in terms of its relevance, how recent it is, and its seriousness.
 - 10.6.1 Mandatory Disqualifying Criteria is any conviction for a sexual offense, a drug felony, a violent crime, or a criminal offense involving a child or children.
 - 10.6.2 Discretionary Criteria includes:
 - Any behavior, illness, mental, physical, or emotional condition that in the opinion of a competent medical authority may cause a defect in judgement or reliability.
 - Acts that may tend to indicate poor judgement, unreliability, or untrustworthiness in working with children.
 - Offenses involving assault, battery, other abuse of a victim regardless of age of the victim
 - Evidence or documentation of substance abuse dependency.

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- Illegal or improper use, possession or addiction to any controlled or psychoactive substance, narcotic, cannabis, or other dangerous drug.
- Sexual acts, conduct, or behavior under circumstances that may indicate untrustworthiness, unreliability, lack of judgement, or irresponsibility in working with children.
- Offenses such as arson, homicide, robbery, fraud, or any offense involving possession or use of a firearm.
- Evidence that the individual is a fugitive from justice.
- Evidence that the individual is an illegal alien who is not entitled to accept gainful employment.
- A finding of negligence in a mishap causing death or serious injury to a child or dependent person entrusted to their care.

10.6.3 In evaluating suitability, the evaluator shall consider the following additional factors to the extent that these examples are considered pertinent:

- The kind of position for which the individual is applying or employed
- Nature and seriousness of the conduct
- How recently the incident occurred
- Age of the individual at the time of the conduct
- Circumstances surrounding the conduct
- Contributing social or environmental conditions

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- Absence or presence of rehabilitation or efforts toward rehabilitation
- Relationship of the alleged offenses for which arrested to the job to be performed.